IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

CRP.No. 111 of 2007(B)

AGAINST THE ORDER DATED 15/06/2006 IN EP.135/1999 IN LAR.42/1993 of ADDL.SUB COURT,KOTTAYAM

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REVN. PETITIONER: DECREE HOLDER.

KUTTAN NEELAKANTAN, VALIYAPARAMBU,
THEKKEPURAYIDATHIL, NALPATHIMALA,
ATHIRAMPUZHA.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

RESPONDENTS: JUDGEMENT DEBTOR.

STATE OF KERALA, REPRESENTED BY
THE DISTRICT COLLECTOR, KOTTAYAM.

BY GOVERNMENT PLEADER SMT. R. BINDU

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

C.R.P.NO. 111 OF 2007

DATED THIS THE 13th DAY OF AUGUST, 2007

ORDER

This revision petition is preferred against the order of the Land Acquisition Court in E.P.No.135/99 in L.A.R.No.42/93 (Additional Subordinate Judge, Kottayam). The points canvassed are that the award grants an amount of Rs.3,00,000/- (Rupees three lakhs only) towards compensation for the building and the Court below has refused to give solatium on that amount on the ground that the decree does not specifically provide for the same. The second aspect is regarding the interest on the solatium and the increased amount under Section 23(1A) of the Act and lastly regarding the principles of appropriation to be followed in these type of cases.

2. It is true that there may arise a doubt in the mind of a Judge regarding the entitlement of solatium and the increased amount under Section 23(1A) of the Act with respect to the amount awarded as compensation for the building. The definition of land takes in the building when the value fixed for the land is entitled to the solatium and the benefit conferred under Section 23(1A) of the Act, it goes without saying that since the building also forms part of the land, the compensation awarded under that head will have to be provided with

solatium as well as the benefits under Section 23(1A) of the Land Acquisition Act. So, the learned Subordinate Judge is directed to consider that point in the light of the above facts, which I have already referred to. Secondly, the contention is regarding the interest on the solatium amount as well as on the amount increased under Section 23(1A) of the Act. It is also settled position of law as per the decision reported in **Sunder Vs. Union of India (2001 (3) KLT 489)**, which laid down that the parties are entitled to, that also may be considered to arrive at a correct figure. The last point is regarding the principle of appropriation. This has been decided by the Apex Court and has laid down the principles to be followed in the decision reported in **Gurpreet Singh Vs. Union of India (2006 (8)SCC 457)**. That also has to be calculated by the Subordinate Judge in the light of the above decision. Therefore, the order under challenge is set aside and the matter is remitted back for consideration of the above three points as stated above after hearing both sides within a time frame of two months from today. The parties are directed to appear before the Court below on 6.9.2007.

The Civil Revision petition is disposed of as above.

M.N. KRISHNAN, JUDGE

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